

Elias, Brad

From: Elias, Brad [belias@OMM.com]
Sent: Tuesday, May 04, 2010 9:52 AM
To: Elizabeth G. Eager
Cc: Burton, Allen
Subject: TASER Litigation: Traders Documents

Liz,

We write in response to your request below that "BAS identify and produce responsive documents from the individuals associated with the following trading numbers: 167, 45, and 04X," and that BAS produce "responsive documents from Kevin Sharkey." We object to your request on several grounds.

First, your request for documents purports to be pursuant to the August 12, 2009 stipulation regarding Defendants responses to Plaintiffs First Interrogatories to Defendants. However, the August 12, 2009 stipulation referenced in your email only addressed the identification of traders, not the production of documents.

Second, there are no individuals associated with the three trading numbers you requested. 045 and 04X were generic codes used to designate trades as part of the prime brokerage flow. 167 was a house account at Roth Capital, a broker-dealer that BAS did business with during the relevant period.

Third, your email notes that your review is still ongoing and you may identify additional traders. We object to your piecemeal requests for information and suggest that you finish your review for additional traders before making any further requests. Doing so will permit the parties to approach the ESI collection and review protocol in an organized fashion, resolve any search issues at one time and minimize the costs and burdens associated with the review.

Fourth, before we can discuss the production of documents from traders, we need additional information from you. Please provide us with your proposed keywords and the time periods for which you request that we search each trader's email. To be clear, at most, we believe that the only relevant time period for such searches, if any, is where BAS executed trades at the same time it had persistent net failure to deliver positions in TASER.

Thank you,

Brad Elias

From: Elizabeth G. Eager [mailto:eager@bmelaw.com]
Sent: Tuesday, April 20, 2010 11:16 AM
To: Dowd, Brendan; Elias, Brad
Cc: Steven J. Rosenwasser; Nicole G. Iannarone
Subject: TASER Litigation: Traders Documents

Brendan,

On August 12, 2009, the parties entered into a stipulation regarding the identification and production of documents from traders. Pursuant to that stipulation, Plaintiffs request that BAS identify and produce responsive documents from the individuals associated with the following trading numbers: 167, 45 and 04X. Plaintiffs also request that responsive documents from Kevin Sharkey be produced.

Plaintiffs understand the numbers referenced above may represent the head trader of a trading desk and that there could be multiple assistants to the head trader that have significant relevant communications with clients and departments within each defendant's operations. Therefore, we request that for each of these trading desks identified, you identify the persons reasonably likely to have responsive information, you search those persons electronically-stored information and produce any responsive materials.

Pursuant to the stipulation, responsive information is due within 30 calendar days from today. Plaintiffs explicitly reserve the right to request information about additional traders (we are providing a partial list now in order to expedite the process, but we expect our continuing review is likely to identify other traders).

Thank you,
Liz Eager

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